

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 553

Introduced by White, 8.

Read first time January 21, 2009

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-1502, 77-1507, 77-1507.01, 77-1510, 77-3506.02,
3 77-5007, 77-5013, and 77-5015, Revised Statutes
4 Cumulative Supplement, 2008; to change real property
5 valuation protest procedures in counties with more
6 than one hundred thousand inhabitants; to harmonize
7 provisions; to provide an operative date; and to repeal
8 the original sections.

9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-1502, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 77-1502 ~~(1)~~ (1)(a) The county board of equalization shall
4 meet for the purpose of reviewing and deciding written protests
5 filed pursuant to this section beginning on or after June 1 and
6 ending on or before July 25 of each year. The protest procedures
7 established by this section do not apply to protest for residential
8 real property in a county with a population of more than one
9 hundred thousand inhabitants based upon the most recent federal
10 decennial census.

11 (b) Protests regarding real property shall be signed and
12 filed after the county assessor's completion of the real property
13 assessment roll required by section 77-1315 and on or before June
14 30. For protests of real property, a protest shall be filed for
15 each parcel. Protests regarding taxable tangible personal property
16 returns filed pursuant to section 77-1229 from January 1 through
17 May 1 shall be signed and filed on or before June 30.

18 (c) The county board in a county with a population of
19 more than one hundred thousand inhabitants based upon the most
20 recent federal decennial census may adopt a resolution to extend
21 the deadline for hearing protests regarding nonresidential real
22 property from July 25 to August 10. The resolution must be adopted
23 before July 25 and it will affect the time for hearing protests for
24 that year only. By adopting such resolution, such county waives any
25 right to petition the Tax Equalization and Review Commission for

1 adjustment of a class or subclass of real property under section
2 77-1504.01 for that year.

3 (2) Each protest shall be signed and filed in triplicate
4 with the county clerk of the county where the property is assessed.
5 The protest shall contain or have attached a statement of the
6 reason or reasons why the requested change should be made and a
7 description of the property to which the protest applies. If the
8 property is real property, a description of each parcel shall be
9 provided. If the property is tangible personal property, a physical
10 description of the property under protest shall be provided. If
11 the protest does not contain or have attached the statement of
12 the reason or reasons for the protest or the description of the
13 property, the protest shall be dismissed by the county board of
14 equalization.

15 (3) No hearing of the county board of equalization on
16 a protest filed under this section shall be held before a single
17 commissioner or supervisor.

18 (4) The county clerk or county assessor shall prepare a
19 separate report on each protest. The report shall include (a) a
20 description of the property to which the protest applies, (b) any
21 recommendation of the county assessor for action on the protest,
22 (c) if a referee is used, the recommendation of the referee, (d)
23 the date the county board of equalization heard the protest, (e)
24 the decision made by the county board of equalization, (f) the date
25 of the decision, and (g) the date notice of the decision was mailed

1 to the protester. The report shall contain, or have attached to
2 it, a statement, signed by the chairperson of the county board of
3 equalization, describing the basis upon which the board's decision
4 was made. The report shall have attached to it a copy of that
5 portion of the property record file which substantiates calculation
6 of the protested value unless the county assessor certifies to the
7 county board of equalization that a copy is maintained in either
8 electronic or paper form in his or her office. One copy of the
9 report, if prepared by the county clerk, shall be given to the
10 county assessor on or before August 2. The county assessor shall
11 have no authority to make a change in the assessment rolls until
12 there is in his or her possession a report which has been completed
13 in the manner specified in this section. If the county assessor
14 deems a report submitted by the county clerk incomplete, the county
15 assessor shall return the same to the county clerk for proper
16 preparation.

17 (5) On or before August 2, or on or before August 18
18 in a county that has adopted a resolution to extend the deadline
19 for hearing protests, the county clerk shall mail to the protester
20 written notice of the board's decision. The notice shall contain
21 a statement advising the protester that a report of the board's
22 decision is available at the county clerk's or county assessor's
23 office, whichever is appropriate, and that a copy of the report may
24 be used to complete an appeal to the Tax Equalization and Review
25 Commission.

1 Sec. 2. (1) The protest procedures established by this
2 section apply to protests for residential real property in a county
3 with a population of more than one hundred thousand inhabitants
4 based upon the most recent federal decennial census. Protests
5 shall be filed after the county assessor's completion of the real
6 property assessment roll required by section 77-1315 and on or
7 before June 30. A protest shall be filed for each parcel.

8 (2) The Department of Revenue shall establish an online,
9 electronic filing procedure. Protests shall be filed electronically
10 with the county clerk or in the office of the county assessor.
11 The county assessor's office shall provide a site or sites for
12 electronic filing by protesters without computer access or training
13 and shall provide staff assistance for protesters. Information
14 on the property description and characteristics shall be made
15 available to the protester in published form. The property
16 description and characteristics of the property found on the
17 protest form shall be verified and accepted as accurate by the
18 protester and the county assessor's office staff as a true and
19 accurate description of the property prior to final filing of the
20 protest form.

21 (3) Upon filing of a protest, the county assessor shall
22 provide the following information to the protester in paper or
23 electronic form: (a) The methods used by the county assessor to
24 value the property; (b) a detailed property description of the
25 property; and (c) a list of comparable properties used in a

1 comparable sales analysis of the property. The county assessor may
2 charge reasonable fees for paper copies of such information.

3 (4) The department shall assign each protest to a
4 credentialed real property appraiser who is employed by the
5 department for review. The real property appraiser shall prepare
6 a separate report on each protest. The report shall include (a) a
7 description of the property to which the protest applies, (b) any
8 recommendation of the county assessor for action on the protest,
9 (c) the date the real property appraiser reviewed the protest, (d)
10 the decision made by the real property appraiser, (e) the date of
11 the decision, and (g) the date notice of the decision was mailed
12 to the protester and county assessor. The report shall contain,
13 or have attached to it, a statement, signed by the real property
14 appraiser, describing the basis upon which the decision was made.
15 The county assessor shall have no authority to make a change in the
16 assessment rolls until there is in his or her possession a report
17 which has been completed in the manner specified in this section.
18 If the county assessor deems a report incomplete, the county
19 assessor shall return the same to the real property appraiser for
20 proper preparation.

21 (5) The report shall contain a statement advising the
22 protester that a copy of the report may be used to complete
23 an appeal to the Tax Equalization and Review Commission. No new
24 evidence or information may be submitted to the commission for
25 purposes of appealing the decision of the real property appraiser's

1 decision in this matter.

2 Sec. 3. Section 77-1507, Revised Statutes Cumulative
3 Supplement, 2008, is amended to read:

4 77-1507 (1) The county board of equalization may meet at
5 any time for the purpose of assessing any omitted real property
6 that was not reported to the county assessor pursuant to section
7 77-1318.01 and for correction of clerical errors as defined in
8 section 77-128 that result in a change of assessed value. The
9 county board of equalization shall give notice of the assessed
10 value of the real property to the record owner or agent at his or
11 her last-known address. For real property which has been omitted in
12 the current year, the county board of equalization shall not send
13 notice pursuant to this section on or before June 1.

14 Protests of the assessed value proposed for omitted real
15 property pursuant to this section or a correction for clerical
16 errors shall be filed with the county board of equalization within
17 thirty days after the mailing of the notice. All provisions of
18 section 77-1502 and section 2 of this act except dates for filing
19 a protest, the period for hearing protests, and the date for
20 mailing notice of the county board of equalization's decision are
21 applicable to any protest filed pursuant to this section.

22 (2) The county clerk or real property appraiser shall,
23 within seven days after the ~~board's~~ final decision, send:

24 (a) For protested action, a notification to the protester
25 of the ~~board's~~ final action advising the protester that a report

1 of the ~~board's~~ final decision is available at the county clerk's
2 or county assessor's office, whichever is appropriate, and that a
3 copy of the report may be used to complete an appeal to the Tax
4 Equalization and Review Commission; and

5 (b) For protested and nonprotested action, a report to
6 the Property Tax Administrator which shall state the description of
7 the property, the reason such property was not assessed pursuant
8 to section 77-1301, and a statement of the ~~board's~~ justification
9 for its action. A copy of the report shall be available for public
10 inspection in the office of the county clerk.

11 (3) The action ~~of the county board of equalization~~ upon
12 a protest filed pursuant to this section may be appealed to the
13 Tax Equalization and Review Commission within thirty days after the
14 ~~board's~~ final decision.

15 (4) Improvements to real property which were properly
16 reported to the county assessor pursuant to section 77-1318.01 for
17 the current year and were not added to the assessment roll by the
18 county assessor on or before March 19 shall only be added to the
19 assessment roll ~~by the county board of equalization~~ from June 1
20 through July 25. In counties that have adopted a resolution to
21 extend the deadline for hearing protests under section 77-1502, the
22 deadline of July 25 shall be extended to August 10.

23 Sec. 4. Section 77-1507.01, Revised Statutes Cumulative
24 Supplement, 2008, is amended to read:

25 77-1507.01 Any person otherwise having a right to appeal

1 may petition the Tax Equalization and Review Commission in
2 accordance with section 77-5013, on or before December 31 of each
3 year, to determine the actual value, special value, or recapture
4 value of real property for that year if a failure to give notice
5 prevented timely filing of a protest or appeal provided for in
6 sections 77-1501 to 77-1510 and section 2 of this act.

7 Sec. 5. Section 77-1510, Revised Statutes Cumulative
8 Supplement, 2008, is amended to read:

9 77-1510 Any action ~~of the county board of equalization~~
10 pursuant to section 77-1502 or section 2 of this act may
11 be appealed to the Tax Equalization and Review Commission in
12 accordance with section 77-5013 on or before August 24 or on or
13 before September 10 if the county has adopted a resolution to
14 extend the deadline for hearing protests under section 77-1502.

15 Sec. 6. Section 77-3506.02, Revised Statutes Cumulative
16 Supplement, 2008, is amended to read:

17 77-3506.02 After ~~county board of equalization action~~
18 actions pursuant to sections 77-1502 to 77-1504.01 and section 2
19 of this act and on or before September 1 each year, the county
20 assessor shall certify to the Department of Revenue the average
21 assessed value of single-family residential property in the county
22 for the current year for purposes of sections 77-3507 to 77-3509.

23 The county assessor shall determine the current average
24 assessed value of single-family residential property from all
25 real property records containing dwellings, mobile homes, and

1 duplexes all of which are designed for occupancy as single-family
2 residential property and any associated land not to exceed one
3 acre.

4 The county assessor shall also report to the Department
5 of Revenue the computed exempt amounts pursuant to section
6 77-3501.01.

7 Sec. 7. Section 77-5007, Revised Statutes Cumulative
8 Supplement, 2008, is amended to read:

9 77-5007 The commission has the power and duty to hear and
10 determine appeals of:

11 (1) Decisions of any county board of equalization
12 equalizing the value of individual tracts, lots, or parcels of
13 real property so that all real property is assessed uniformly and
14 proportionately;

15 (2) Decisions of any county board of equalization
16 granting or denying tax-exempt status for real or personal property
17 or an exemption from motor vehicle taxes and fees;

18 (3) Decisions of the Tax Commissioner, and decisions
19 of the Property Tax Administrator made before July 1, 2007,
20 determining the taxable property of a railroad company, car
21 company, public service entity, or air carrier within the state;

22 (4) Decisions of the Tax Commissioner, and decisions
23 of the Property Tax Administrator made before July 1, 2007,
24 determining adjusted valuation pursuant to section 79-1016;

25 (5) Decisions of any county board of equalization on

1 the valuation of personal property or any penalties imposed under
2 sections 77-1233.04 and 77-1233.06;

3 (6) Decisions of any county board of equalization on
4 claims that a levy is or is not for an unlawful or unnecessary
5 purpose or in excess of the requirements of the county;

6 (7) Decisions of any county board of equalization
7 granting or rejecting an application for a homestead exemption;

8 (8) Decisions of the Department of Motor Vehicles
9 determining the taxable value of motor vehicles pursuant to section
10 60-3,188;

11 (9) Decisions of the Tax Commissioner, and decisions of
12 the Property Tax Administrator made before July 1, 2007, made under
13 section 77-1330;

14 (10) Any other decision of any county board of
15 equalization;

16 (11) Any other decision of the Property Tax Administrator
17 made before July 1, 2007, and decisions made by the Tax
18 Commissioner regarding property valuation, exemption, or taxation
19 made on or after July 1, 2007;

20 (12) Decisions of the Tax Commissioner pursuant to
21 section 77-3520 or section 2 of this act; and

22 (13) Any other decision, determination, action, or order
23 from which an appeal to the commission is authorized.

24 The commission has the power and duty to hear and grant
25 or deny relief on petitions.

1 Sec. 8. Section 77-5013, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 77-5013 (1) The commission obtains exclusive jurisdiction
4 over an appeal or petition when:

5 (a) The commission has the power or authority to hear the
6 appeal or petition;

7 (b) An appeal or petition is timely filed;

8 (c) The filing fee, if applicable, is timely received and
9 thereafter paid; and

10 (d) In the case of an appeal, a copy of the decision,
11 order, determination, or action appealed from, or other information
12 that documents the decision, order, determination, or action
13 appealed from, is timely filed.

14 Only the requirements of this subsection shall be deemed
15 jurisdictional.

16 (2) A petition, an appeal, or the information required by
17 subdivision (1)(d) of this section is timely filed and the filing
18 fee, if applicable, is timely received if placed in the United
19 States mail, postage prepaid, with a legible postmark for delivery
20 to the commission, or received by the commission, on or before the
21 date specified by law for filing the appeal or petition. If no date
22 is otherwise provided by law, then an appeal shall be filed within
23 thirty days after the decision, order, determination, or action
24 appealed from is made.

25 (3) The filing fee for each appeal or petition filed with

1 the commission is twenty-five dollars, except that (a) no filing
2 fee shall be required for an appeal by a county assessor acting
3 in his or her official capacity or a county board of equalization
4 acting in its official capacity and (b) the filing fee for an
5 appeal under section 2 of this act is one hundred dollars.

6 (4) The form and requirements for execution of an appeal
7 or petition may be specified by the commission in its rules and
8 regulations.

9 Sec. 9. Section 77-5015, Revised Statutes Cumulative
10 Supplement, 2008, is amended to read:

11 77-5015 Appeals regarding the valuation or exemption of
12 multiple parcels involving the same owner and the same issues
13 may be consolidated in the manner prescribed by the commission.
14 Any multiple filing fees paid for consolidated appeals shall be
15 refunded by the commission. In any case appealed to the commission
16 all parties shall be afforded an opportunity for hearing after
17 reasonable notice. The notice shall state the time and place of
18 the hearing. Opportunity shall be afforded all parties to present
19 evidence and argument. In an appeal of a decision of a real
20 property appraiser under section 2 of this act, the appeal shall be
21 based upon the information and any record created on review by the
22 real property appraiser. The commission shall prepare an official
23 record, which includes testimony and exhibits, in each case, but it
24 shall not be necessary to transcribe the record of the proceedings
25 unless requested for purposes of rehearing, in which event the

1 transcript and record shall be furnished by the commission upon
2 request and tender of the cost of preparation. Informal disposition
3 may also be made of any case by stipulation, agreed settlement,
4 consent order, or default.

5 Sec. 10. This act becomes operative on January 1, 2010.

6 Sec. 11. Original sections 77-1502, 77-1507, 77-1507.01,
7 77-1510, 77-3506.02, 77-5007, 77-5013, and 77-5015, Revised
8 Statutes Cumulative Supplement, 2008, are repealed.